

JS 44 (Rev. 06/17)

EGS

CIVIL COVER SHEET

5:18-cv-2979

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kathryn Hawk

(b) County of Residence of First Listed Plaintiff **Berks**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Joel A. Ready, Cornerstone Law Firm, LLC  
8500 Allentown Pike, Suite 3, Blandon, PA 19510  
610-926-7875

DEFENDANTS

**18 2979**  
The Spa at Spring Ridge, LLC; Benjamin Schlechter; Ivy Schlechter;  
and Employee Benefit Plan for Employees of the Spa at Spring Ridge

County of Residence of First Listed Defendant **Berks**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**29 U.S.C. 1132(1)(B)**

Brief description of cause:  
**ERISA Violation: 401K**

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/11/2018

SIGNATURE OF ATTORNEY OF RECORD

*Joel Ready*

**JUL 17 2018**

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**EGS**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

18

2979

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 123 Mickey Court, Mohrsville, PA 19541

Address of Defendant: 2603 Keiser Boulevard, Suite 202, Wyomissing, PA 19610

Place of Accident, Incident or Transaction: 2603 Keiser Boulevard, Suite 202, Wyomissing, PA 19610

**RELATED CASE, IF ANY:**Case Number: \_\_\_\_\_ Judge: AK Date Terminated: \_\_\_\_\_Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: 07/12/2018Joel Ready  
Attorney-at-Law / Pro Se Plaintiff

321966

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☒ 10. Social Security Review Cases
- ☒ 11. All other Federal Question Cases  
(Please specify): ERISA violation

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Joel A. Ready, counsel of record or pro se plaintiff, do hereby certify:☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☒ Relief other than monetary damages is sought.DATE: 07/12/2018Joel Ready  
Attorney-at-Law / Pro Se Plaintiff

JUL 17 2018

321966

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

## CASE MANAGEMENT TRACK DESIGNATION FORM

V.

.....

NO. 10 2979

( )  
(X)

JUL 17 2018



8500 Allentown Pike, Suite 3  
Blandon, PA 19510

July 12, 2018

James A. Byrne U.S. Courthouse  
Clerk of Courts  
601 Market Street  
Philadelphia, PA 19106

**Re: Kathryn Hawk v. The Spa at Spring Ridge, LLC; Benjamin Schlechter; Ivy Schlechter; and Employee Benefit Plan for Employees of the Spa at Spring Ridge  
Civil Complaint**

Dear Sir/Madam:

Enclosed for filing please find a Civil Complaint in the above referenced matter along with a check for your filing fee of \$400.00. Please return a time-stamped copy in the enclosed envelope.

Very truly yours,

CORNERSTONE LAW FIRM, LLC

By: Joel A. Ready  
Joel A. Ready

JAR/vak  
Encl.

\$400.

EGS

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KATHRYN HAWK,  
Plaintiff,

v.

THE SPA AT SPRING RIDGE, LLC;  
BENJAMIN SCHLECHTER;  
IVY SCHLECHTER; and  
EMPLOYEE BENEFIT PLAN FOR  
EMPLOYEES OF THE SPA AT SPRING  
RIDGE;

Defendants,

CIVIL ACTION

18 2979

No. \_\_\_\_\_

JURY TRIAL DEMANDED

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**COMPLAINT**

1. A jury trial is demanded.
2. Plaintiff is Kathryn Hawk, a married individual residing at 123 Mickey Court, Mohrsville, Pennsylvania 19541.
3. Defendants are the Spa at Spring Ridge, LLC (the "Spa"), a Pennsylvania limited liability company registered at, and with its principal place of business at 2603 Keiser Boulevard, Suite 202, Wyomissing, Pennsylvania 19610, as well as the owners and operators of the same, Benjamin Schlechter, M.D., and Ivy Schlechter, a married couple living at 114 Coventry Lane, Wyomissing, Pennsylvania 19610; the final defendant is the 401k plan established by the Spa for the benefit of Spa employees (the "Plan"), and Benjamin and Ivy Schlechter in their capacity as Plan trustees.

### **Jurisdiction and Venue**

4. This Court maintains subject matter jurisdiction over this matter because Employee Retirement Income Security Act (ERISA) violations present federal questions within the meaning of Article III, § 2.

5. This Court maintains subject matter jurisdiction over the breach of contract claim listed below as part of this Court's supplemental jurisdiction. 28 U.S.C. § 1367(a).

6. Personal jurisdiction over the Defendants is proper because the natural persons are domiciled in Pennsylvania, because the LLC is a Pennsylvania LLC, and because the Plan is for the benefit of employees of a Pennsylvania business and is otherwise domiciled in Pennsylvania.

7. Venue is appropriate in the Eastern District of Pennsylvania because the Defendants are domiciled in Pennsylvania for purposes of 28 U.S.C. § 1391(b), and because the events or omissions giving rise to the claim occurred in this judicial district.

### **Factual Background**

8. Kathryn Hawk worked for the Spa at Spring Ridge from August 2008 until February 15, 2018.

9. As a result of her termination, Mrs. Hawk, the Spa, and the Spa's owners, Benjamin and Ivy Schlechter, are currently engaged in litigation in the Berks County Court of Common Pleas at civil docket number 18-02474.

10. During the time of her employment with the Spa, Mrs. Hawk accumulated benefits in her 401k.

11. Mrs. Hawk is fully vested in the 401k funds.

12. The 401k is administered by the Spa for the benefit of its employees (the "Plan").

13. Upon information and belief, Benjamin and Ivy Schlechter are trustees of the Plan.

14. In June 2018, Mrs. Hawk sought to liquidate various securities within her 401k and roll over the funds to a money market account to reinvest in an IRA.

15. Mrs. Hawk's financial adviser reached out to Ivy Schlechter to obtain approval for this rollover and was told by Mrs. Schlechter that the 401k funds belonging to Mrs. Hawk "are not available and will not be available for the foreseeable future."

16. Undersigned counsel reached out to the attorney for the Defendants who, on July 3, 2018, explained Mrs. Schlechter's refusal in the following terms: "My client is in no mood to cooperate with giving your client anything at this point while she [is] still evaluating the loss."

17. This reference to "the loss" is apparently related to Defendants' claims in the Berks County Court of Common Pleas' lawsuit, in which they allege that Mrs. Hawk caused them various types of financial loss during her employment.

18. Despite reminding counsel for Mrs. Schlechter that they are required, under ERISA, to give Mrs. Hawk access to her funds, regardless of any such loss, Defendants and their counsel have refused to provide any other response.

19. Mrs. Hawk has exhausted all internal appeals within the Plan, having appealed the refusal to the highest authority within the Plan—the trustee.

**Count I: 29 U.S.C. § 1132(1)(B)**  
**ERISA Violation: 401k**

20. The foregoing paragraphs are incorporated herein by reference.

21. Mrs. Hawk's entitlement to benefits under the Defendants' 401k Plan is subject to enforcement under ERISA, 29 U.S.C. § 1132(1)(B).

22. As a result of the foregoing, Defendants have breached their contractual obligations to Mrs. Hawk by refusing to "approve" the rollover of funds, which is in direct breach of the Plan



documents, and by violating their duty of good faith and fair dealing.

23. Mrs. Hawk has exhausted all appeals known to her under the Plan, and the Defendants' repeated statements through counsel and directly to Mrs. Hawk's financial advisor that the money will not be available to Mrs. Hawk at any time in the future demonstrate the futility of any further efforts to obtain release of the funds.

24. As a result of the foregoing, Mrs. Hawk has been harmed as more fully set forth herein.

25. As a result of the foregoing, Defendants should be Ordered to follow Mrs. Hawk's instructions in regards to the funds held in her 401k, including the liquidation and rollover of such funds to the IRA or money market account of her choice.

**WHEREFORE**, Plaintiff, Kathryn Hawk, respectfully request that this Honorable Court enter an injunction against Defendants requiring approval of the rollover of the 401k funds to the account of Plaintiff's choice, plus interest, cost and attorneys' fees, and award such other and further relief as is deemed just and equitable, or in the alternative, judgment against Defendants in an amount in excess of \$75,000.00, plus interest, cost and attorneys' fees, and award such other and further relief as is deemed just and equitable.

**Count II:**  
**Breach of Contract**

26. The foregoing paragraphs are incorporated herein by reference.

27. Mrs. Hawk was contractually entitled to her 401k proceeds, as they formed part of her contract at the Spa.

28. Mrs. Hawk is entitled to these funds independently of how pending litigation in the Berks County Court of Common Pleas is resolved.

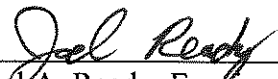


29. There is no legitimate reason for Defendants to withhold a rollover of these funds.

**WHEREFORE**, Plaintiff requests that this Honorable Court award damages in an amount to be determined at trial for Plaintiff's pay and reimbursement of costs, plus interest as well as attorneys' fees and costs, along with such other relief as this Honorable Court shall think proper.

**CORNERSTONE LAW FIRM, LLC**

By:

  
\_\_\_\_\_  
Joel A. Ready, Esquire  
Attorney I.D. #321966  
8500 Allentown Pike, Suite 3  
Blandon, PA 19510  
(610) 926-7875  
*Counsel for Plaintiff*